

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE OR CORRECT  
 SENTENCE BY A PERSON IN FEDERAL CUSTODY

34  
 MITCHELL R. ELFERS  
 CLERK

United States District Court		District <u>NEW Mexico</u>
Name (Under which you were convicted): <u>Cordny Henry</u>		Docket or Case No. <u>CR 16-1097 JCH</u>
Place of Confinement: <u>F.C.I. Mendota</u>		Prisoner No. <u>53187048</u>
UNITED STATES OF AMERICA		Movant (Include name under which convicted) v. <u>Cordny Henry</u>

### Motion

- (a) Name and location of court that entered the judgment of conviction you are challenging: New Mexico District Court  
 (b) Criminal docket or case number (if you know): CR 16-1097
- (a) Date of the judgment of conviction (if you know): 2-22-18  
 (b) Date of sentencing: 1-22-19
- Length of sentence: 240 months
- Nature of crime (all counts)  
A) Sex Trafficking  
B) Transportation
- (a) What was your plea? (check one)  
 (1) Not guilty [ ] (2) Guilty ☒ (3) Nolo contendere (no contest) [ ]  
 (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- If you went to trial, what kind of trial did you have? (Check one) Jury ☒ Judge only [ ]
- Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes [ ] No ☒

8. Did you appeal from the judgment of conviction? Yes ☐ No ☒

9. If you did appeal, answer the following:

(a) Name of court: \_\_\_\_\_

(b) Docket or case number (if you know): \_\_\_\_\_

(c) Result: \_\_\_\_\_

(d) Date of result (if you know): \_\_\_\_\_

(e) Citation to the case (if you know): \_\_\_\_\_

(f) Grounds raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☒

If "yes," answer the following

(1) Docket or case number (if you know): \_\_\_\_\_

(2) Result: \_\_\_\_\_  
\_\_\_\_\_

(3) Date of result (if you know): \_\_\_\_\_

(4) Citation of the case (if you know): \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?

Yes ☐ No ☒

11. If your answer to question 10 was "yes," give the following information:

(a) (1) Name of court: \_\_\_\_\_

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

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(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes [ ]

No ☒

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

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(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes [ ]

No ☒

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(c) Did you appeal to a federal appellate court jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes [ ] No [ ]

(2) Second petition: Yes [ ] No [ ]

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not: \_\_\_\_\_

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12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

**GROUND ONE:** MY Lawyer Lied about my Defense Strategy

(a) Supporting facts do not argue or cite law. Just state the specific facts that support your claim.):

# 112 on  
my Docket  
sheet ~~was~~ is  
everything I was  
Told was going  
to be my defense  
I would have never  
went to Trial

I was Told I had a solid defense  
but was never Told that the defense  
was based on motions that had to  
be granted until 2 weeks before Trial which  
they were denied leaving me with an unsensible  
defense and a superseding indictment which force  
me to Plea out Now with more years to do

(b) Direct Appeal of Ground One:

- (1) If you appeal from judgment of conviction, did you raise this issue?

Yes [ ]

No ☒

- (2) if you did not raise this issue in your direct appeal, explain why: I didn't

go thru with Trial

(c) Post-Conviction Proceedings:

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☒

No [ ]

- (2) If your answer to question (c)(1) is "yes," State

Type of motion or petition: This one 28 U.S.C. 2255

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

New Mexico

Docket or case number (if you know): CR 16-1097 JCH

Date of court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion of order, if available): \_\_\_\_\_

- (3) Did you receive a hearing on your motion, petition, or application?

Yes [ ]

No [ ]

(4) Did you appeal from the denial of your motion, petition, or application?

Yes [ ]

No [ ]

(5) If your answer to question (c)(4) is "yes," did you raise this issue in the appeal?

Yes [ ]

No [ ]

(6) If your answer to (c) (4) is "yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion, if available): \_\_\_\_\_

(7) If your answer to question (c)(4) or question (c)(5) is "no," explain why you did not appeal or raise this issue: \_\_\_\_\_

**GROUND TWO:**

LACK OF PRIVATE INVESTIGATION

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

I was incarcerated for nearly three  
years before the date of my trial  
however I only seen my private investigator  
twice he never investigated anything  
on my behalf no witness, hotel employees  
and I was going to trial

(b) Direct Appeal of Ground Two:

(1) If you appeal from judgment of conviction, did you raise this issue?

Yes [ ] No [ ]

(2) if you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes [ ] No [ ]

(2) If your answer to question (c)(1) is "yes," State

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

\_\_\_\_\_  
Docket or case number (if you know): \_\_\_\_\_

Date of court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion of order, if available): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes [ ] No [ ]

(4) Did you appeal from the denial of your motion, petition, or application?

Yes [ ] No [ ]

(5) If your answer to question (c)(4) is "yes," did you raise this issue in the appeal?

Yes [ ] No [ ]

(6) If your answer to (c)(4) is "yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

\_\_\_\_\_  
Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion, if available): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

(7) If your answer to question (c)(4) or question (c)(5) is "no," explain why you did not appeal or raise this issue: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**GROUND THREE** Lack of witness Testimony

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim:

Juanita Williams my co-defendant  
turned Federal witness Made  
to different debriefing statements  
However my lawyer never made  
them available to me As  
preparing for Trial I never  
about the second debriefing  
until 3 weeks before Trial  
after my second superseding which  
added more time to my charges

(b) Direct Appeal of Ground Three:

(1) If you appeal from judgment of conviction, did you raise this issue?

Yes ☐

No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☐

(2) If your answer to question (c)(1) is "yes," State

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion of order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes [ ] No [ ]

(4) Did you appeal from the denial of your motion, petition, or application?

Yes [ ] No [ ]

(5) If your answer to question (c)(4) is "yes," did you raise this issue in the appeal?

Yes [ ] No [ ]

(6) If your answer to (c)(4) is "yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion, if available): \_\_\_\_\_

(7) If your answer to question (c)(4) or question (c)(5) is "no," explain why you did not appeal or raise this issue: \_\_\_\_\_

**GROUND FOUR: Ineffective assistance of Counsel**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

I was TRICKED INTO PROCEEDING WITH TRIAL  
being told I had a solid defense but  
was never told it was all based on motions  
which were denied a couple days before trial  
making it hard to recuperate after getting another  
charged indictment forcing me to plea to years  
added.

(b) Direct Appeal of Ground Four:

(1) If you appeal from judgment of conviction, did you raise this issue?

Yes [ ] No [ ]

(2) if you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_



(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes [ ] No [ ]

(2) If your answer to question (c) (1) is "yes," State

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion of order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes [ ] No [ ]

(4) Did you appeal from the denial of your motion, petition, or application?

Yes [ ] No [ ]

(5) If your answer to question (c)(4) is "yes," did you raise this issue in the appeal?

Yes [ ] No [ ]

(6) If your answer to (c)(4) is "yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion, if available): \_\_\_\_\_

(7) If your answer to question (c)(4) or question (c)(5) is "no," explain why you did not appeal or raise this issue: \_\_\_\_\_

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: \_\_\_\_\_

14. Do you have any motions, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes [ ] No [☒]

If "yes," state the name and location of the court, the docket number, the type of proceeding, and the issues raised. \_\_\_\_\_

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Kenneth Galeria

1008 5<sup>th</sup> St NW Albuquerque, NM 87102

(b) At arraignment and plea:

Kenneth Galeria

(c) At trial: Kenneth Galeria

(d) At sentencing:

Kenneth Galeria

(e) On appeal: \_\_\_\_\_

(f) In any post-conviction proceeding: \_\_\_\_\_

(g) On appeal from any ruling against you in a post-conviction proceeding: \_\_\_\_\_

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes [☒] No [ ]

## 16. Legal

17. Do you have any future sentence to serve after you complete the sentence for the judgment the you are challenging?                      Yes [ ]                      No [☒]
- (a) If so, give name and location of the court that imposed the other sentence you will serve in the future: \_\_\_\_\_
- (b) Give the date that the other sentence was imposed: \_\_\_\_\_
- (c) Give the length of the other sentence: \_\_\_\_\_
- (d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future?                      Yes [ ]                      No [ ]
18. **TIMELINESS OF MOTION:** If your judgment if conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.\*

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

- (1) The date on which the judgment of conviction became final;
- (2) The date on which the impediment to making a motion created by governmental action in violation of the Constitution of laws of the United States is removed, if the Movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claims presented could have been discovered through the exercise of due diligence.

**Therefore, Movant asks that the Court grant the following relief: \_\_\_\_\_ prays the court will vacate the sentence and any other relief the court may deem appropriate under its equitable authority**

\_\_\_\_\_

\_\_\_\_\_

or any other relief to which Movant may be entitled

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the forgoing is true and correct and that this Motion Under 28 U.S.C. § 2255 was placed in the prison mailing system on

1-7-20, (month date, and year).

Executed (signed) on 1-7-20 (date).

Cordy Henry  
Movant

If the person signing is not Movant, state relationship to Movant and explain why Movant is not signing this motion.

\_\_\_\_\_

\_\_\_\_\_

37. Legal

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF New Mexico**

U.S.A.  
 Petitioner,

Case No. \_\_\_\_\_  
 (Leave blank for court to fill in)

V.

Cordny Henry  
 Respondents.

**APPLICATION TO PROCEED IN  
 FORMA PAUPERIS, SUPPORTING  
 DOCUMENTATION AND ORDER**

I, Cordny Henry, declare that I am the (check appropriate box)

☐ Petitioner/Plaintiff  
☒ Respondent/Defendant

☒ Movant (filing 28 U.S.C. § motion)  
☐ \_\_\_\_\_

In the above-entitled proceeding: that, in support of my request to proceed without being required to prepay fees, cost or give security therefore, I state that because of my poverty, I am unable to pay the costs of said proceeding or give security therefore; that I believe I am entitled to relief. The nature of my action, defense, or other proceeding or the issues I intend to present on appeal are briefly stated as follows:

In further support of this application, I answer the following questions.

1. Are you presently employed? ☐ Yes ☒ No
  - a. If the answer is "yes", state the amount of your salary or wages per month, and give the name and address of your employer. (list both gross and net salary).
  - b. If the answer is "no", state the date of last employment and the amount of the salary and wages per month which you received.
2. Have you received within the past twelve months any money from any of the following sources?
  - a. Business, profession, or other form of self employment? ☐ Yes ☒ No
  - b. Rent payments, interest or dividends? ☐ Yes ☒ No
  - c. Pensions, annuities or life insurance payments? ☐ Yes ☒ No
  - d. Gifts or inheritances? ☐ Yes ☒ No

If the answer to any of the above is "yes", describe each source of money and state the amount received from each during the past twelve months.

3. Do you own any cash, or do you have money in checking and savings accounts? (Include any funds in prison accounts). If the answer is "yes", state the total value of the items owned. ☐ Yes  
☒ No

4. Do you own or have any interest in any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishing and clothing)? ☐ Yes ☒ No

If the answer is "yes", describe the property and state approximate value.

5. List the persons who are dependent upon your support, state your relation ship to those persons, and indicate how much you contribute toward their support.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 12-3-19  
 (Date)

Cordy Henry  
 (Signature of Applicant)

### CERTIFICATE (Prisoner Accounts Only)

I certify that the applicant named herein has the sum of \$ 68.05 on his account to his credit at the FCI Mendota Institution where he is currently confined. I further certify that the applicant likewise has the following securities to his credit according to the records of said institution: FCI Mendota

I further certify that during the last six months the applicant's balance was \$ 146.21; last 6-month deposits \$2,663.76

Institution

m. Hardy / mnd

, Case Manager

Authorized by the Act of

**ORDER OF COURT**  
 July 7, 1955 amended, to  
 Administer Oaths (18 USC 4004)

The application is hereby denied  
 therefor.

The application is hereby granted. Let the Applicant proceed without prepayment of cost Or fees or the necessity of giving security

United States Judge or U.S. Magistrate Judge

Date

United States Judge or U.S. Magistrate Judge

Date

Cordny Henry #53187048  
FBI - Mendota  
Federal Correctional Institution  
Mendota, CA 93640

PB Box #9

UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

JAN 06 2020

MITCHELL R. STEENS  
CLERK

U.S. District Court  
District of New Mexico  
Albuquerque, NM 87102

